

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

DAVID E. MACK

Plaintiff,

VS.

ADVANTAGE ASSETS II, INC.

Defendant.

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**Case No. 4:11CV348
(consolidated with 4:11cv349)**

ORDER

Now before the Court is Plaintiff's Motion to Dismiss Counterclaim (Dkt. 9). Since the filing of Plaintiff's motion, Defendants have amended their answer and counterclaim (*see* Dkt. 16). Therefore, the motion to dismiss (Dkt. 9) is DENIED as MOOT. As previously noted, the Court will address any Rule 12 motions as to the live pleadings only.

Based on this ruling, Defendants' Motion to Strike Motion to Dismiss Counterclaim (Dkt. 17) is DENIED as MOOT.

SO ORDERED.

SIGNED this 19th day of September, 2011.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE